

**Fresh Milk and Dairy products**  
**ATTACHMENT A: TERMS & CONDITIONS**

**Bid Delivery Instructions for State Procurement:**

Bidders are hereby advised that the U.S. Postal Service does not make deliveries to our physical location.

Bids may be mailed through the U.S. Postal Service to our box at:

Office of State Procurement  
P O Box 94095  
Baton Rouge, LA 70804-9095

Bids may be delivered by hand or courier service to our physical location as follows:

Office of State Procurement  
Claiborne Building, Suite 2-160  
1201 North Third Street  
Baton Rouge, LA 70802

Bidder should be aware of security requirements for the Claiborne Building and allow time to be photographed and presented with a temporary identification badge.

Bidder is solely responsible for ensuring that its courier service provider makes inside deliveries to our physical location. The Office of State Procurement is not responsible for any delays caused by the bidder's chosen means of bid delivery. Bidder is solely responsible for the timely delivery of its bid. Failure to meet the bid opening date & time shall result in rejection of the bid.

Publicizing Awards: In accordance with L.A.C.34:V.335, unsuccessful bidders will be notified of the award provided that they submit with their bid a self-addressed stamped envelope requesting this information.

\*\*\*\*ATTENTION\*\*\*\*

Receipt of a solicitation or award cannot be relied upon as an assurance of receiving future solicitations. In order to receive notifications of future solicitations from this office, you must enroll in the proper category in LaGOV at the following web site:

[https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest\\_user=self\\_reg](https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest_user=self_reg)

Enrollment in LaGOV provides LaPAC email notification of bid opportunities based upon commodities that you select.

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**Terms and Conditions.** This solicitation contains all terms and conditions with respect to the commodities herein. Any vendor contracts, forms, terms or other materials submitted with bid may cause bid to be rejected.

**Vendor List.** The bidder who signs the bid will be designated as Prime Contractor of any contract resulting from this solicitation (RFx). If additional Distributor Vendors are authorized to receive orders for items contained in said contract, the bidder should submit with the bid a list of those additional Authorized Distributors including the complete business address. The Prime Contractor will be responsible for the actions of any Distributor Vendors listed.

**Compliance with Civil Rights Laws.** By submitting and signing this solicitation, the bidder agrees to abide by the requirements of the following as applicable : Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and bidder agrees to abide by the requirements of the Americans with Disabilities Act of 1990. Bidder agrees not to discriminate in its employment practices, and will render services under any contract entered into as a result of this solicitation, without regard to race, color, religion, sex, sexual orientation, gender

**Fresh Milk and Dairy products**  
**ATTACHMENT A: TERMS & CONDITIONS**

identity, national origin, veteran status, political affiliation, disability or age in any matter relating to employment. Any act of discrimination committed by bidder, or failure to comply with these statutory obligations when applicable, shall be grounds for termination of any contract entered into as a result of this solicitation.

**Federal Clauses.** Anti-Kickback Clause: The contractor hereby agrees to adhere to the mandate dictated by the Copeland "Anti-Kickback" Act which provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.

Clean Air Act: The contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders or requirements issued under SECTION 306 of the Clean Air Act which prohibits the use under non-exempt federal contracts, grants or loans of facilities included on the EPA list of Violating Facilities.

Energy Policy and conservation Act: The contractor hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the State Energy conservation Plan issued in compliance with the Energy Policy and conservation Act (P.L. 94-163). Clean Water Act:

The contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders, or requirements issued under SECTION 508 of the Clean Water Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

Anti-Lobbying and Debarment Act. The contractor will be expected to comply with Federal Statutes required in the Anti-Lobbying Act and the Debarment Act.

**Cooperative Purchase.** Political Subdivisions of the State, Quasi State Agencies, and external procurement units (described below), may be permitted to purchase from contracts made by the Office of State Procurement. The bidder may, at its option, permit Political Subdivisions of the State, Quasi State Agencies, and external procurement units to purchase from any contract awarded against this solicitation.

Please check all that apply:

\_\_\_\_\_ Bidder permits any contract awarded to apply to Quasi State Agencies or other Political Subdivisions of the State.

\_\_\_\_\_ Bidder permits any contract awarded to apply to agencies of the United States government.

\_\_\_\_\_ Bidder permits any contract awarded to apply to other buying organizations (other than the United States government), not located in this state which, if located in this state, would qualify as a public procurement unit.

**Contract Revisions.** Requests for revisions to the contract must be addressed to the Director of State Procurement and shall refer to the contract item number (with brief explanation of request) with justification of the request. Distributor vendor changes, price reductions and justifiable item deletions may be requested at any time during the contract period. Revisions will become effective only upon approval by the Office of State Procurement.

New item additions will be considered only on the anniversary date of the contract. Exceptions to this will be allowed only when State Procurement has determined additions will be of substantial benefit to the state and will justify the time, effort and cost required to make such additions.

Contractor must immediately notify the Office of State Procurement when any dealer on the contract is terminated, relocated or added. All orders placed with dealers prior to receipt of such notification by the Office of State Procurement must be honored. Revisions will become effective only upon approval by the

# Fresh Milk and Dairy products

## ATTACHMENT A: TERMS & CONDITIONS

Director of State Procurement or Designee. Bidder should include with bid a list of all persons, in addition to the signer of this bid, who are authorized to request revisions to the contract.

I, \_\_\_\_\_, duly authorized to execute the contract,  
hereby delegate the following person/persons to submit written requests for revisions to  
the contract:

1) \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

2) \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

3) \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

Briefly state any restriction as to type of revisions delegates may request.

COMMENT:

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**Contractual Period.** The State of Louisiana intends to award all items for an initial period, not to exceed 12 months. Delays in awarding, beyond the anticipated starting date, may result in a change in the contract period. If the situation occurs, an award may be made for less than 12 months.

**Cancellation.** The State of Louisiana reserves the right to cancel the contract with thirty (30) days written notice.

### Certification of No Federal Suspension or Debarment

By signing and submitting any bid for \$25,000 or more, the bidder certifies that their company, any subcontractors, or principals are not suspended or debarred by the General Services Administration (GSA) in accordance with the requirements in "Audit Requirements in Subpart F of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Formerly OMB Circular A-133).

A list of parties who have been suspended or debarred can be viewed via the internet at <http://www.sam.gov>.

**Contract Performance Evaluation.** In an effort to improve our contracts to meet the needs of the agencies we serve, the contractor's performance will be monitored. Agencies' feedback will be requested regarding customer service, delivery, product quality, billing, overall effectiveness of the contract, and any needed changes. Their responses will be considered in determining our options for renewals or revisions and rebidding. To view the content of the contract performance evaluation form, go to <http://www.doa.louisiana.gov/osp/onlineforms/submit/contperformance.pdf>, or call for a copy. Agency reports of deficient performance will be appropriately addressed during the contract period.

**Non-Exclusivity Clause.** The contract shall be non-exclusive and shall not in any way preclude state agencies from entering into similar contracts and/or arrangements with other vendors or from acquiring similar, equal, or like goods and/or services from other entities or sources.

**Fresh Milk and Dairy products**  
ATTACHMENT A: TERMS & CONDITIONS

**Contract Extension Option.** At the option of the State of Louisiana and acceptance by the contractor, the contract may be extended for two additional twelve (12) month periods at the same price, terms and conditions. Total contract time may not exceed thirty-six (36) months.

**Vendor's Forms.** The Purchase Orders is the only binding document to be issued against the contract. Signing of vendor's forms is not allowed.

**\*\*\* Method of Award.** Award to be made on an all-or-none basis by each region as listed on this bid. However, the State of Louisiana reserves the right to award items separately, grouped or on an All-Or-None basis, to reject individual items from an area award, and to reject any or all bids and to waive informalities.

Region 1: St. Tammany, Jefferson, Plaquemine, St. Bernard, Orleans Parishes

Region 2: Washington, Tangipahoa, Ascension, Iberville, St. Helena, E. Feliciana, W. Feliciana, E. Baton Rouge, W. Baton Rouge, Livingston, Pointe Coupee Parishes

Region 3: St. John, St. James, Assumption, Lafourche, Terrebonne, St. Charles Parishes

Region 4: Evangeline, St. Landry, Acadia, St. Martin, Lafayette, Iberia, St. Mary, Vermilion Parishes

Region 5: Beauregard, Allen Calcasieu, Jefferson Davis, Cameron Parishes

Region 6: Winn, LaSalle, Grant, Catahoula, Concordia, Rapides, Avoyelles, Vernon

Region 7: Caddo, Bossier, Webster, Claiborne, Lincoln, Natchitoches, Sabine, Red River, Bienville, DeSoto Parishes

Region 8: Union, Morehouse, West Carroll, East Carroll, Ouachita, Madison, Caldwell, Franklin, Tensas, Richland, Jackson Parishes

**Controversies.** Any claims or controversies associated with the contract issued as a result of this solicitation will be resolved in accordance with the Louisiana Procurement Code, R.S. 39:1671-1673.

**Scope of Contract.** Submittal of any terms and conditions contrary to those of the State of Louisiana may cause your bid to be rejected. By signing below, terms and conditions which may be included in your bid are nullified and contractor agrees that the contract shall be construed in accordance with and governed by the laws of the State of Louisiana.

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Bidder's Signature

**Preference Milk and Dairy.** In accordance with La. R.S. 38:2251.1, a preference of 10% may be claimed on Milk and Dairy Products which are produced or processed in Louisiana.

Do you claim this preference? \_\_\_\_\_

Specify Line  
Number(s): \_\_\_\_\_

Specify Location within Louisiana where this product is manufactured, produced, grown or assembled:

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(Note: If more space is required, include on separate sheet.)

Failure to specify above information may cause elimination from preference.

**Fresh Milk and Dairy products**  
ATTACHMENT A: TERMS & CONDITIONS

**Preference Louisiana.** In accordance with Louisiana Revised Statutes 39:1604, a preference may be allowed for products manufactured, produced, grown, or assembled in Louisiana of equal quality.

Do you claim this preference? \_\_\_\_\_

Specify Line

Number(s): \_\_\_\_\_

Specify Location within Louisiana where this product is manufactured, produced, grown or assembled:

\_\_\_\_\_  
(Note: If more space is required, include on separate sheet.)

Do you have a Louisiana Business workforce? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, do you certify that at least fifty percent (50%) of your Louisiana business workforce is comprised of Louisiana residents? Yes \_\_\_\_\_ No \_\_\_\_\_

Failure to specify above information may cause elimination from preference.

**Procurement of United States Products.**

In accordance with the provisions of La. R.S. 39:1604.7, in the event a contract is not entered into for products purchased under the provisions of La R.S. 39:1604, each procurement officer, purchasing agent, or similar official who procures or purchases materials, supplies, products, provisions, or equipment under the provisions of this Chapter may purchase such materials, supplies, products, provisions, or equipment which are manufactured in the United States, and which are equal in quality to other materials, supplies, products, provisions, or equipment, provided that all of the following conditions are met:

- (1) The cost of such items does not exceed the cost of other items which are manufactured outside the United States by more than five percent.
- (2) The vendor of such items agrees to sell the items at the same price as the lowest bid offered on such items.
- (3) In cases where more than one bidder offers items manufactured in the United States which are within five percent of the lowest bid, the bidder offering the lowest bid on such items is entitled to accept the price of the lowest bid made on such items.
- (4) The vendor certifies that such items are manufactured in the United States.

For the purposes of this preference,

(1) "Manufactured in the United States" means produced by a process in which the manufacturing, final assembly, processing, packaging, testing, and any other process that adds value, quality, or reliability to assembled articles, materials, or supplies, occur in the United States.

(2) "United States" means the United States and any place subject to the jurisdiction of the United States.

Do you claim this preference? Yes \_\_\_\_\_

Specify line number(s): \_\_\_\_\_

Specify location within the United States where this product is manufactured:

\_\_\_\_\_

## Fresh Milk and Dairy products

### ATTACHMENT A: TERMS & CONDITIONS

(Note: if more space is required, include on separate sheet.)

Failure to specify above information may cause elimination from preference.

**Administrative Fee or Rebate.** The State shall be due a minimum of 1% administrative fee or rebate to be payable to the State of Louisiana, Office of State Procurement in exchange for the management and facilitation of the contract(s) resulting from this solicitation. The calculation of the administrative fee or rebate includes any entity receiving contract pricing resulting from the awarded contracts. The administrative fee or rebate shall be submitted quarterly and shall be based on the total net (gross sales minus returns, credits and deductions) sales made to entities located in the State of Louisiana under the contract. The check is to be made payable to the State of Louisiana, Division of Administration, Office of State Procurement. The check is to be mailed to the Office of State Procurement, Attn: OSP Receivables Specialist, either through the U.S. Postal Service to our box at: P. O. Box 94095, Baton Rouge, LA 70804-9095; or through a courier service to our physical location at: 1201 North 3<sup>rd</sup> Street, Suite 2-160, Baton Rouge, LA 70802. The calculation of the administrative fee or rebate shall begin immediately upon execution of the contract and payment shall be made in accordance with the following schedule:

<u>Quarter</u>	<u>Payment Period</u>	<u>Payment Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

If vendor/contractor is offering a greater administrative fee or rebate than specified above, please indicate the percentage here: \_\_\_\_\_%

**Contract Usage Reports.** The Contractor Shall submit detailed contract usage reports quarterly to the Office of State Procurement Contracts Manager for the contract in accordance with the below schedule. Initiation and submission of the quarterly reports to the Office of State Procurement is the responsibility of the Contractor without prompting or notification by the Office of State Procurement Contracts Manager. If these reports are not submitted in a timely manner, the Office of State Procurement shall have the right to terminate the contract.

The specific usage report content, scope and format requirement is available on the office of State Procurement website under Purchasing/On Line Forms/Vendor Forms:  
<http://www.doa.la.gov/pages/osp/vendorcenter/forms/index.aspx>. In addition, the person's name who compiled the report and their contact information shall be provided. The Office of State Procurement reserves the right to request copies of any purchase orders issued against the contract.

The usage report shall be submitted utilizing this format or an equivalent format that has been pre-approved by the Office of State Procurement.

Schedule for submittal of usage reports:

<u>Quarter</u>	<u>Payment Period</u>	<u>Payment Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

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**Substitutes.** Only brands and numbers stated in the award are approved for delivery under the contract and any substitution must receive prior written approval of the Director of State Procurement or Designee.

**Submission of Sufficient Information.** Every item bid should have sufficient information enclosed with the bid, in order to determine quality, suitability, and compliance with the specifications. The above

**Fresh Milk and Dairy products**  
**ATTACHMENT A: TERMS & CONDITIONS**

requirements included items in which the bidder states he proposes to furnish exactly what is called for in the specifications.

**Labels and/or Specifications.** Labels and/or specifications must be submitted upon request; if requested, labels and/or specifications must be submitted within three (3) days.

**Case Count and Size.** All bidders should indicate the manufacturer and model number for each line number and specify the case count and sizes on each item bid.

If the case count and sizes quoted are the same as the description on this solicitation (RFx), confirm this information for each item by filling in the blanks in the description column. Failure to comply with this request may eliminate your bid from consideration.

**Bidding Other Than Specified.** If bidding other than specified, sufficient information should be enclosed with the bid in order to determine quality, suitability, and compliance with the specifications. Failure to comply with this request may eliminate your bid from consideration.

**Sample(s) may be required.** When requested, samples must be furnished at vendor's expense, and received not later than 10 days after request. Packages should be clearly labeled with the file number. Each individual sample within the package must be clearly labeled with the bidder's name, manufacturer's brand name and number, file number and item reference. Submit only one bid proposal's samples per box. Samples of successful bidder will be retained at the Office of State Procurement or the using agency for the purpose of receiving merchandise. Any part of merchandise received that does not meet the quality standards and construction of the sample will be rejected and returned at vendor's expense.

Any other samples received, if not destroyed in testing, may be returned at the bidder's expense. Request for return, shipping authorization, and sufficient return postage must be received no later than 10 days after receipt of samples, or commodities shall be disposed of by the State of Louisiana.

**Package Markings.** Packages must be marked with the brand and number of the product and such other information as sizes, types, quantity, use instruction, etc. which helps the end user in using the product correctly.

**Packaging and Labeling.** Vendors are encouraged to consider delivery methods that utilize recyclable or reusable packaging material and containers, or those with recycled content.

**Imported Products.** USDA inspection certificate will be required on all imported products. A copy of the certificate must accompany each delivery and no exception will be made. The label and product must be for the grade specified in the description. The can size must be stated in ounces on the bid for all imported products.

**Inspections.** Although certificates will not be required for all items under the terms of the contract, all items will be subject to agency and federal inspection as to grade and/or quality after delivery. If any item is inspected and fails to meet the specifications, it will be rejected, the cost of inspection will be charged to the vendor, and any deliveries already made will be held for the vendor's disposition or returned to the vendor via freight collect. If the vendor fails to make satisfactory replacement within a reasonable time, the purchasing agency reserves the right to cancel the item and to purchase it elsewhere, charging the increase in price and cost of handling, if any, to the vendor making the unsatisfactory delivery. If a federal inspection requested by an agency shows that the merchandise does meet the specifications, the cost of the inspection will be paid by the receiving agency which initiated the inspection.

**USDA Compliance.** All items furnished under the contract must be in compliance with USDA (United States Department of Agriculture) and FDA (Food and Drug Administration) requirements and laws including labeling requirements.

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## Fresh Milk and Dairy products

### ATTACHMENT A: TERMS & CONDITIONS

**Price Reductions.** Whenever there is a reduction in price, which is lower than the contract price, offered to similarly situated customers contracting for the same period and under the same terms and conditions, said reduction must be presented directly to the Director of State Procurement. No price reduction on a statewide contract may be offered to an agency unless that reduction is offered to all.

**Acceptance.** Bids on the contract will be assumed to be firm for acceptance for a minimum of 60 days. If accepted, prices must be firm for the specified contract period.

**Quantities.** This is an open-ended requirements contract. Quantities shown are based on the previous contract usage or estimates. Where usage is not available, a quantity of 1 indicates a lack of history on this item. The successful bidder must supply at bid price actual requirements as ordered whether the total of such requirements is more or less than the quantities shown.

**Increase/Decrease.** The above quantities are estimated to be the amount needed. In the event a greater or lesser quantity is needed, the right is reserved by the State of Louisiana to increase or decrease the amount, at the unit price stated in the bid.

**Price.** It shall be distinctly agreed and understood that the price quoted must be a firm price, and shall not be subject to change at time of shipment or delivery.

**Freight Charges:** Unit price shall be inclusive of any freight charges. Bid shall be F.O.B. Destination agency – title passing upon receipt of goods. Failure to comply with this requirement may disqualify your bid.

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**Delivery.** Bid shall be F.O.B. Destination agency – title passing upon receipt of goods.

Delivery is to be made upon the issuance of a purchase order. Contractors will maintain an adequate supply of all items in order to meet specified delivery of not more than ninety (90) business days. Delivery shall be made to any agency of the State government eligible by State statute and/or authorized to purchase from the contract.

The desired delivery is three (3) days after receipt of order (ARO). If your delivery is other than three (3) days ARO please specify:

**Delivery Days** \_\_\_\_\_ **ARO.**

**Timely Delivery.** Timely delivery of all orders is imperative. If a vendor cannot meet any delivery, it is the vendor's responsibility to contact the dietary department of the ordering agency and secure a mutually agreeable extension. Failure to deliver as promised will be considered a default by the vendor.

In the event an extension cannot be agreed upon, the order may be cancelled. Additionally, per terms of the contract, defaulting vendor may be surcharged any increased cost resulting from failure to deliver.

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**Orders.** All State Agencies are to issue contract purchase orders for the items required, as and when needed. Political Subdivisions of the State and Quasi Agencies who have been authorized to purchase from contracts made by the Office of State Procurement, are to issue their regular purchase orders directly to the supplier, making reference to the contract and item number.

**Invoices.** Invoices will be submitted by the contractor to the using agency and the invoice shall refer to the delivery ticket number, delivery date, purchase order number, quantity, unit price, and delivery point. A separate invoice for each order delivered and accepted shall be submitted by the contractor in duplicate directly to the accounting department of the using agency. Invoices shall show the amount of any cash discount and shall be submitted on the contractor's own invoice form.

## Fresh Milk and Dairy products

### ATTACHMENT A: TERMS & CONDITIONS

**Payment.** Payment will be made on the basis of unit price as listed in the contract; such price and payment will constitute full compensation for furnishing and delivering the contract commodities. In no case will the state agency refuse to make partial payments to the contractor although all items have not been delivered. This payment in no way relieves the contractor of his responsibility to effect shipment of the balance of the order. Payment will be made to vendor and address as shown on order.

**Electronic Vendor Payment Solution.** In an effort to increase efficiencies and effectiveness as well as be strategic in utilizing technology and resources for the State and vendors, the State intends to make all payments to vendors electronically. The LaCarte procurement card will be used for purchases of \$5,000 and under, and where feasible, over \$5,000. Vendors will have a choice of receiving electronic payment for all other payments by selecting the Electronic Funds Transfer (EFT). If you receive an award and do not currently accept the LaCarte card or have not already enrolled in EFT, you will be asked to comply with this request by choosing one of the following two options. You may indicate your acceptance below.

**LaCarte.** The LaCarte procurement card uses a Visa card platform. Vendors receive payment from state agencies using the card in the same manner as other Visa card purchases. Vendors cannot process payment transactions through the credit card clearinghouse until the purchased products have been shipped or received or the services performed.

For all statewide and agency term contracts: Under the LaCarte program, purchase orders are not necessary. Orders must be placed against the net discounted products of the contract. All contract terms and conditions apply to purchases made with LaCarte.

If a purchase order is not used, the vendor must keep on file a record of all LaCarte purchases issued against the contract during the contract period. The file must contain the particular item number, quantity, line total and order total. Records of these purchases must be provided to the Office of State Procurement on request.

**EVP.** The EVP method converts check payments to a visa credit card thereby streamlining payments to your organization. Participants receive a credit card account number with unique security features. This card will have a \$0 available funds until an invoice is approved for payment. As payments are approved, electronic remittance notifications are sent via email along with approval to charge the card for that amount. EVP requires no change to current invoice procedures; it is secure, and does not require your bank information.

**EFT.** The EFT payments are sent from the state's bank directly to the payee's bank each weekday. The only requirement is that you have an active checking or savings account at a financial institution that can accept Automated Clearing House (ACH) credit files and remittance information electronically. Additional information is available at: <http://www.doa.louisiana.gov/ERP/pdfs/LaGov%20AP-03%20EFT%20Vendor%20Enrollment%20Instructions%20.pdf> or <http://www.doa.louisiana.gov/OSRAP/EFTforWebsite.pdf>

To facilitate this payment process, you will need to complete and return both EFT enrollment forms found at: <http://www.doa.louisiana.gov/ERP/pdfs/LaGov%20AP-03%20-%20EFT%20Vendor%20Enrollment%20Form.pdf> and <http://www.doa.louisiana.gov/OSRAP/EFTforWebsite.pdf>.

If an award is made to your company, please check which option you will accept or indicate if you are already enrolled.

Payment type	Will Accept	Already Enrolled
LaCarte	_____	_____
EVP	_____	_____

**Fresh Milk and Dairy products**  
ATTACHMENT A: TERMS & CONDITIONS

EFT \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Individual Authorized

\_\_\_\_\_  
Authorized Signature for Payment Type Chosen

\_\_\_\_\_  
Date

\_\_\_\_\_  
Email address and phone number of authorized individual

**Late Payments.** Interest due by a State Agency for late payments shall be in accordance with La. R.S. 39:1695 at the rates established in La. R.S. 13:4202.